

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAISANKAR MARIMUTHU,

Defendant.

8:07CR30

MEMORANDUM AND ORDER

This matter is before the Court on the Defendant's pro se motions to vacate conviction and sentence (Filing No. 280), for copies (Filing No. 281) and for a status report (Filing No. 282).

FACTUAL BACKGROUND

The Defendant, Jaisankar Marimuthu, pleaded guilty to Counts One and Twenty-Two of the Indictment charging him with: conspiracy to commit computer and securities fraud (Count One); and aggravated identity fraud (Count Twenty-Two). Marimuthu was sentenced to 57 months imprisonment on Count One and 24 months on Count Twenty-Two, with the latter term to be served consecutively. Restitution was ordered. A direct appeal was filed; however, the Eighth Circuit Court of Appeals enforced the appeal waiver and in a per curiam opinion dismissed the appeal. Marimuthu's petition for rehearing by the panel was denied. The Court denied his motion brought under 28 U.S.C. § 2255. This Court and the Eighth Circuit denied Marimuthu's request for a certificate of appealability, and the Eighth Circuit dismissed his appeal. The instant motions followed.

DISCUSSION

I. Motion to Vacate

In his motion to vacate, Marimuthu argues that he was arrested on an unconstitutional warrant and, therefore, his conviction should be vacated as well as his sentence as a matter of right. Marimuthu entered an unconditional guilty plea, and therefore he waived his right to challenge the constitutionality of his arrest. *United States v. Vasquez-Gutierrez*, No. 11-1517, 2012 WL 1537892, at *2 n.5 (8th Cir. May 3, 2012), *petition for cert. filed*, __ U.S.L.W. __ (U.S. July 31, 2012) (No. 12-5575); *United States v. Freeman*, 625 F.3d 1049, 1052 (8th Cir. 2010).

II. Motions for Copies and Status Report

Marimuthu requests a file-stamped copy of his motion and the docket report. His motion reflects a concern that the motion might not have been filed. Because this Memorandum and Order shows the motion was filed, the motion for copies is denied.

Marimuthu's request for a status report is denied as moot.

IT IS ORDERED:

1. The Defendant's motions to vacate conviction and sentence (Filing No. 280), for copies (Filing No. 281) are denied;
2. The Defendant's motion for a status report (Filing No. 282) is denied as moot; and
3. The Clerk is directed to mail a copy of this Memorandum and Order to the Defendant at his last known address.

Dated this 6th day of September, 2012.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge